

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2007-1168-AGR-E **TCEQ ID:** RN103769881 **CASE NO.:** 34203**RESPONDENT NAME:** Comtex Dairies, L.L.C. and Randi Lockwood Willis dba Comtex Dairy

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Comtex Dairy, 500 County Road 102, Comanche County</p> <p>TYPE OF OPERATION: Dairy farm</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 17, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Ms. Randi Lockwood Willis, Owner, Comtex Dairies, L.L.C. and Randi Lockwood Willis dba Comtex Dairy, 500 County Road 102, Comanche, Texas 76442 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 14, 2007</p> <p>Date of NOV/NOE Relating to this Case: May 18, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation. Two violations were documented.</p> <p>WATER</p> <p>1) Failure to remove sludge from the retention control structure ("RCS") to prevent the accumulation of sludge from exceeding the designed sludge volume of the structure. Specifically, the investigator documented that the sludge in RCS No. 1 exceeded the design capacity of 1.21 acre-feet [30 TEX. ADMIN. CODE § 321.39(c)(1)].</p> <p>2) Failure to cease applying waste or wastewater to the land management unit ("LMU") when results of the annual soil analysis indicate a level of greater than 200 parts per million ("ppm") of extractable phosphorus in Zone 1 for a particular LMU unless the application is implemented in accordance with a detailed nutrient utilization plan ("NUP"). Specifically, agricultural wastewater was applied to LMU No. 1 without a NUP after analysis of samples collected in January 2007 showed 236 ppm extractable phosphorus for Zone 1 [30 TEX. ADMIN. CODE § 321.40(k)(2) and TPDES Permit No. TXG920011, Pollution Prevention Plan Requirements].</p>	<p>Total Assessed: \$4,290</p> <p>Total Deferred: \$858</p> <p><input checked="" type="checkbox"/> Expedited Settlement</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,432</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Respondents submitted a nutrient utilization plan which was approved on March 30, 2007.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondents to:</p> <p>1) Within 30 days after the effective date of this Agreed Order, remove the sludge from RCS No. 1 to restore the designed sludge volume of the structure; and</p> <p>2) Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 1.</p>

Additional ID No. TXG920011



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

DATES	Assigned	18-Jun-2007	Screening	17-Jul-2007	EPA Due	
	PCW	19-Jul-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	Comtex Dairies, L.L.C. and Randi Lockwood Willis dba Comtex Dairy		
Reg. Ent. Ref. No.	RN103769881		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	34203	No. of Violations	2
Docket No.	2007-1168-AGR-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Samuel Short
Multi-Media		EC's Team	EnforcementTeam 3
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 **\$3,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **43% Enhancement** **Subtotals 2, 3, & 7** **\$1,290**

Notes: A 43% enhancement is recommended for having two NOV's for non-similar violations, two Agreed Orders with denial, and one Notice of Intent letter within the last five years.

Culpability **No** **0% Enhancement** **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **0% Reduction** **Subtotal 5** **\$0**

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts	\$56	0% Enhancement*
Approx. Cost of Compliance	\$2,500	*Capped at the Total EB \$ Amount

Subtotal 6 **\$0**

SUM OF SUBTOTALS 1-7

Final Subtotal **\$4,290**

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Adjustment **\$0**

Notes

Final Penalty Amount **\$4,290**

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty **\$4,290**

DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

20% **Reduction** **Adjustment** **-\$858**

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$3,432

Screening Date 17-Jul-2007

Docket No. 2007-1168-AGR-E

PCW

Respondent Comtex Dairies, L.L.C. and Randi Lockwood Willis dba Comtex Dairy

Policy Revision 2 (September 2002)

Case ID No. 34203

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN103769881

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component Number of...

Enter Number Here

Adjust.

NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 43%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

A 43% enhancement is recommended for having two NOVs for non-similar violations, two Agreed Orders with denial, and one Notice of Intent letter within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 43%

Screening Date 17-Jul-2007		Docket No. 2007-1168-AGR-E		PCW																			
Respondent Comtex Dairies, L.L.C. and Randi Lockwood Willis dba Comtex Dairy		<i>Policy Revision 2 (September 2002)</i>																					
Case ID No. 34203		<i>PCW Revision June 26, 2007</i>																					
Reg. Ent. Reference No. RN103769881																							
Media [Statute] Water Quality																							
Enf. Coordinator Samuel Short																							
Violation Number		<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>																					
Rule Cite(s)		<div style="border: 1px solid black; padding: 5px; text-align: center;">30 Tex. Admin. Code § 321.39(c)(1)</div>																					
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failed to remove sludge from the retention control structure ("RCS") to prevent the accumulation of sludge from exceeding the designed sludge volume of the structure. Specifically, the investigator documented that the sludge in RCS No. 1 exceeded the design capacity of 1.21 acre-feet .</div>																					
Base Penalty				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$10,000</div>																			
>> Environmental, Property and Human Health Matrix																							
OR	<table border="1" style="margin: auto; border-collapse: collapse;"> <tr> <td></td> <th colspan="3">Harm</th> <td></td> </tr> <tr> <td>Release</td> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td>Actual</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td rowspan="2" style="vertical-align: middle;">Percent <div style="border: 1px solid black; padding: 2px; text-align: center;">10%</div></td> </tr> <tr> <td>Potential</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td style="text-align: center;">x</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> </table>					Harm				Release	Major	Moderate	Minor		Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px; text-align: center;">10%</div>	Potential	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	x	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>
		Harm																					
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Potential	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	x	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																				
>> Programmatic Matrix																							
	<table border="1" style="margin: auto; border-collapse: collapse;"> <tr> <td></td> <th>Falsification</th> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td rowspan="2" style="vertical-align: middle;">Percent <div style="border: 1px solid black; padding: 2px; text-align: center;">0%</div></td> </tr> </table>					Falsification	Major	Moderate	Minor			<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px; text-align: center;">0%</div>							
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Matrix Notes	<div style="border: 1px solid black; padding: 5px;">Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors.</div>																						
Adjustment				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$9,000</div>																			
				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$1,000</div>																			
Violation Events																							
Number of Violation Events		<div style="border: 1px solid black; padding: 2px; text-align: center;">2</div>	<div style="border: 1px solid black; padding: 2px; text-align: center;">125</div>	Number of violation days																			
<i>mark only one with an x</i>	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Violation Base Penalty <div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,000</div>																				
	monthly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																					
	quarterly	x																					
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																					
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																					
	single event	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																					
<div style="border: 1px solid black; padding: 5px; text-align: center;">Two quarterly events are recommended from the March 14, 2007 investigation until the July 17, 2007 screening date.</div>																							
Economic Benefit (EB) for this violation																							
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px; text-align: center;">\$52</div>	Statutory Limit Test																				
			Violation Final Penalty Total <div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,860</div>																				
This violation Final Assessed Penalty (adjusted for limits)				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,860</div>																			

Economic Benefit Worksheet

Respondent Comtex Dairies, L.L.C. and Randi Lockwood Willis dba Comtex Dairy
Case ID No. 34203
Reg. Ent. Reference No. RN103769881
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$1,000	14-Mar-2007	31-Mar-2008	1.0	\$52	n/a	\$52
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove sludge from the RCS to maintain the designed sludge volume of the structure. The date required is the investigation date and the final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$52

Screening Date 17-Jul-2007

Docket No. 2007-1168-AGR-E

PCW

Respondent Comtex Dairies, L.L.C. and Randi Lockwood Willis dba Comtex Dairy

Policy Revision 2 (September 2002)

Case ID No. 34203

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN103769881

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 321.40(k)(2) and TPDES Permit No. TXG920011, Pollution Prevention Plan Requirements

Violation Description Failed to cease applying waste or wastewater to the land management unit ("LMU") when results of the annual soil analysis indicate a level of greater than 200 parts per million ("ppm") of extractable phosphorus in Zone 1 for a particular LMU unless the application is implemented in accordance with a detailed nutrient utilization plan ("NUP"). Specifically, agricultural wastewater was applied to LMU No. 1 without a NUP after analysis of samples collected in January 2007 showed 236 ppm extractable phosphorus for Zone 1.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

17 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the March 14, 2007 investigation until the March 30, 2007 date the NUP was approved.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$1,430

This violation Final Assessed Penalty (adjusted for limits) \$1,430

Economic Benefit Worksheet

Respondent Comtex Dairies, L.L.C. and Randi Lockwood Willis dba Comtex Dairy
Case ID No. 34203
Reg. Ent. Reference No. RN103769881
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$1,500	14-Mar-2007	30-Mar-2007	0.0	\$3	n/a	\$3
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop a NUP for the facility. The date required is the investigation date and the final date is the date the NUP was approved.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$1,500****TOTAL** **\$3**

Compliance History

Customer/Respondent/Owner-Operator: CN602938185 Comtex Dairies, L.L.C. Classification: AVERAGE Rating: 19.00
 Regulated Entity: RN103769881 COMTEX DAIRY Classification: AVERAGE Site Rating: 19.00
 ID Number(s): WASTEWATER AGRICULTURE PERMIT TXG920011
 Location: 500 COUNTY ROAD 102, COMANCHE COUNTY, TX Rating Date: 9/1/2006 Repeat Violator: NO
 TCEQ Region: REGION 03 - ABILENE
 Date Compliance History Prepared: June 18, 2007
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: June 18, 2002 to June 18, 2007
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Samuel Short Phone: (512) 239-5363

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Comtex Dairies, L.L.C.
4. If Yes, who was/were the prior owner(s)? Ronald West
5. When did the change(s) in ownership occur? N/A
08/19/2004

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- Effective Date: 11/22/2002 ADMINORDER 2001-1070-AGR-E
 Classification: Moderate
 Citation: 2C TWC Chapter 20, SubChapter A 26.121(a)(1)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 321, SubChapter B 321.31(a)
 Rqmt Prov: V PERMIT
 Description: Failure to prevent an unauthorized discharge of wastewater from a retention pond.
- Effective Date: 05/28/2006 ADMINORDER 2005-1815-AGR-E
 Classification: Major
 Citation: 30 TAC Chapter 321, SubChapter B 321.31(a)
 30 TAC Chapter 321, SubChapter B 321.39(b)(3)
 Description: Failure to contain and to prevent agricultural wastewater from entering waters of the state.
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|---|------------|----------|
| 1 | 08/22/2002 | (6010) |
| 2 | 01/28/2003 | (284113) |
| 3 | 07/18/2003 | (144459) |
| 4 | 08/05/2004 | (284584) |
| 5 | 04/07/2005 | (375101) |
| 6 | 07/13/2005 | (339175) |
| 7 | 05/03/2006 | (460157) |
| 8 | 05/31/2007 | (543993) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- Date 05/27/2004 (284584)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 321, SubChapter B 321.42(j)
 Description: SOIL SAMPLE RESULTS WERE NOT SUBMITTED WITHIN THE 60 DAY TIME PERIOD.
 Date 05/05/2006 (460157)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 321, SubChapter B 321.39(g)(2)
 Description: Failure to maintain crops, vegetation, forage growth, or post harvest residue in the normal growing season for animals in pastures, TXG920000 Part III.B(5)
 Self Report? NO Classification: Minor

Citation:	30 TAC Chapter 321, SubChapter B 321.43(j)(5)(B)		
Description:	Failure of earthen pens to be maintained to ensure good drainage, minimize ponding, and minimize the entrance of uncontaminated storm water to the RCS. TXG920000 Part III.A.10(b)	Classification	Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 321, SubChapter B 321.40(e)		
Description:	Failure of Irrigation practices to minimize ponding or puddling of wastewater on the site, prevent tailwater discharges to waters in the state and prevent the occurrence of nuisance conditions. TXG920000 Part III.A.11(d)(1)	Classification	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 321, SubChapter B 321.47(d)(7)		
Rqmt Prov:	OP TXG920011/Part III.A.15(a)(1)		
Description:	Failure of the permittee to conduct repairs of the control facility and land application equipment and preventative maintenance noted in visual inspections and equipment testing. TXG920000 Part III.A.15(a)(1)		

F. Environmental audits.

Notice of Intent Date: 10/24/2002 (33097)
No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

Compliance History

Customer/Respondent/Owner-Operator: CN600862551 WILLIS, RANDI LOCKWOOD Classification: AVERAGE Rating: 19.00
Regulated Entity: RN103769881 COMTEX DAIRY Classification: AVERAGE Site Rating: 19.00
ID Number(s): WASTEWATER AGRICULTURE PERMIT TXG920011
Location: 500 COUNTY ROAD 102, COMANCHE COUNTY, TX Rating Date: September 01 06 Repeat Violator: NO
TCEQ Region: REGION 03 - ABILENE
Date Compliance History Prepared: June 18, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 18, 2002 to June 18, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Samuel Short Phone: (512) 239-5363

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Comtex Dairies, L.L.C.
4. If Yes, who was/were the prior owner(s)? Ronald West
5. When did the change(s) in ownership occur? N/A
08/19/2004

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.

Effective Date: 11/22/2002 ADMINORDER 2001-1070-AGR-E
Classification: Moderate
Citation: 2C TWC Chapter 20, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 321, SubChapter B 321.31(a)
Rqmt Prov: V PERMIT
Description: Failure to prevent an unauthorized discharge of wastewater from a retention pond.

Effective Date: 05/28/2006 ADMINORDER 2005-1815-AGR-E
Classification: Major
Citation: 30 TAC Chapter 321, SubChapter B 321.31(a)
30 TAC Chapter 321, SubChapter B 321.39(b)(3)
Description: Failure to contain and to prevent agricultural wastewater from entering waters of the state.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 08/22/2002 (6010)
2 01/28/2003 (284113)
3 07/18/2003 (144459)
4 08/05/2004 (284584)
5 04/07/2005 (375101)
6 07/13/2005 (339175)
7 05/03/2006 (460157)
8 05/31/2007 (543993)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date 05/27/2004 (284584)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 321, SubChapter B 321.42(j)
Description: SOIL SAMPLE RESULTS WERE NOT SUBMITTED WITHIN THE 60 DAY TIME PERIOD.
Date 05/05/2006 (460157)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 321, SubChapter B 321.39(g)(2)
Description: Failure to maintain crops, vegetation, forage growth, or post harvest residue in the normal growing season for animals in pastures, TXG920000 Part III.B(5)
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 321, SubChapter B 321.43(j)(5)(B)
Description: Failure of earthen pens to be maintained to ensure good drainage, minimize ponding, and minimize the entrance of uncontaminated storm water to the RCS. TXG920000 Part III.A.10(b)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 321, SubChapter B 321.40(e)
Description: Failure of Irrigation practices to minimize ponding or puddling of wastewater on the site, prevent tailwater discharges to waters in the state and prevent the occurrence of nuisance conditions. TXG920000 Part III.A.11(d)(1)

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 321, SubChapter B 321.47(d)(7)
Rqmt Prov: OP TXG920011/Part III.A.15(a)(1)
Description: Failure of the permittee to conduct repairs of the control facility and land application equipment and preventative maintenance noted in visual inspections and equipment testing. TXG920000 Part III.A.15(a)(1)

F. Environmental audits.

Notice of Intent Date: 10/24/2002 (33097)
No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
COMTEX DAIRIES, L.L.C. AND
RANDI LOCKWOOD WILLIS DBA
COMTEX DAIRY
RN103769881**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1168-AGR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Comtex Dairies, L.L.C. and Randi Lockwood Willis dba Comtex Dairy ("Comtex Dairies and Ms. Willis") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Comtex Dairies and Ms. Willis appear before the Commission and together stipulate that:

1. Comtex Dairies and Ms. Willis own and operate a dairy farm at 500 County Road 102 in Comanche County, Texas (the "Facility").
2. Comtex Dairies and Ms. Willis have caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and Comtex Dairies and Ms. Willis agree that the Commission has jurisdiction to enter this Agreed Order, and that Comtex Dairies and Ms. Willis are subject to the Commission's jurisdiction.
4. Comtex Dairies and Ms. Willis received notice of the violations alleged in Section II ("Allegations") on or about May 23, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Comtex Dairies and Ms. Willis of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Four Thousand Two Hundred Ninety Dollars (\$4,290) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Comtex Dairies and Ms. Willis have paid Three Thousand Four Hundred Thirty-Two Dollars (\$3,432) of the administrative penalty and Eight Hundred Fifty-Eight Dollars (\$858) is deferred contingent upon Comtex Dairies' and Ms. Willis' timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Comtex Dairies and Ms. Willis fail to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Comtex Dairies and Ms. Willis to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Comtex Dairies and Ms. Willis have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Comtex Dairies and Ms. Willis submitted a nutrient utilization plan ("NUP") which was approved on March 30, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Comtex Dairies and Ms. Willis have not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owners and operators of the Facility, Comtex Dairies and Ms. Willis are alleged to have:

1. Failed to remove sludge from the retention control structure ("RCS") to prevent the accumulation of sludge from exceeding the designed sludge volume of the structure, in violation of 30 TEX. ADMIN. CODE § 321.39(c)(1), as documented during an investigation conducted on March 14, 2007. Specifically, the investigator documented that the sludge in RCS No. 1 exceeded the design capacity of 1.21 acre-feet.
2. Failed to cease applying waste or wastewater to the land management unit ("LMU") when results of the annual soil analysis indicate a level of greater than 200 parts per million ("ppm") of extractable phosphorus in Zone 1 for a particular LMU unless the application is implemented in accordance with a detailed NUP, in violation of 30 TEX. ADMIN. CODE § 321.40(k)(2) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. TXG920011, Pollution

Prevention Plan Requirements, as documented during an investigation conducted on March 14, 2007. Specifically, agricultural wastewater was applied to LMU No. 1 without a NUP after analysis of samples collected in January 2007 showed 236 ppm extractable phosphorus for Zone 1.

III. DENIALS

Comtex Dairies and Ms. Willis generally deny each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Comtex Dairies and Ms. Willis pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Comtex Dairies' and Ms. Willis' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Comtex Dairies, L.L.C. and Randi Lockwood Willis dba Comtex Dairy, Docket No. 2007-1168-AGR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Comtex Dairies and Ms. Willis are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
3. It is further ordered that Comtex Dairies and Ms. Willis shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, remove the sludge from RCS No. 1 to restore the designed sludge volume of the structure; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant

penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2301 Gravel Drive
Fort Worth, Texas 76118-6951

4. The provisions of this Agreed Order shall apply to and be binding upon Comtex Dairies and Ms. Willis. Comtex Dairies and Ms. Willis are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If Comtex Dairies and Ms. Willis fail to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Comtex Dairies' and Ms. Willis' failure to comply is not a violation of this Agreed Order. Comtex Dairies and Ms. Willis shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Comtex Dairies and Ms. Willis shall notify the Executive Director within seven days after Comtex Dairies and Ms. Willis become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Comtex Dairies and Ms. Willis shall be made in writing to the Executive Director. Extensions are not effective until Comtex Dairies and Ms. Willis receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against Comtex Dairies and Ms. Willis in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by

facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Comtex Dairies and Ms. Willis, or three days after the date on which the Commission mails notice of the Order to Comtex Dairies and Ms. Willis, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Galloway
For the Executive Director

12/7/07
10/9/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Randi L. Willis
Signature

10/9/2007
Date

RANDI L. WILLIS
Name (Printed or typed)
Authorized Representative of
Comtex Dairies, L.L.C.

MEMBER
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

THE ANTHROPOLOGY OF THE
FUTURE

By
J. H. HENNESSY

Part I.

THE first of the great questions which the anthropologist of the future will have to solve is the question of the origin of man. It is a question which has occupied the minds of philosophers and scientists for centuries, and which has given rise to many different theories and hypotheses. The most important of these theories are the theory of evolution, the theory of creation, and the theory of migration.

The theory of evolution, which was first proposed by Charles Darwin, is the most widely accepted of the three theories. It is based on the principle that all living organisms are descended from a common ancestor, and that they have evolved over time through the process of natural selection. According to this theory, man is descended from an ape-like ancestor, and has evolved into his present form through the process of natural selection.

The theory of creation, which is based on the belief that man was created by God, is the most widely accepted of the three theories among the general public. It is based on the principle that man was created in the image and likeness of God, and that he has remained unchanged since he was first created. According to this theory, man is not descended from an ape-like ancestor, but is a separate creation of God.

The theory of migration, which is based on the belief that man has migrated from one part of the world to another, is the least widely accepted of the three theories. It is based on the principle that man has always lived in the same part of the world, and that he has never migrated to any other part of the world. According to this theory, man is not descended from an ape-like ancestor, but is a separate creation of God.

The theory of evolution is the most widely accepted of the three theories, but it is also the most controversial. It is based on the principle that all living organisms are descended from a common ancestor, and that they have evolved over time through the process of natural selection. According to this theory, man is descended from an ape-like ancestor, and has evolved into his present form through the process of natural selection.

The theory of creation is the most widely accepted of the three theories among the general public, but it is also the most controversial. It is based on the belief that man was created by God, and that he has remained unchanged since he was first created. According to this theory, man is not descended from an ape-like ancestor, but is a separate creation of God.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Miller
For the Executive Director

12/7/07
10/9/2007
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Randi L. Willis
Signature

10/9/2007
Date

RANDI L. WILLIS
Name (Printed or typed)
Authorized Representative of
Randi Lockwood Willis dba Comtex Dairy

MEMBER
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

THE JOURNAL OF THE
ROYAL ANTHROPOLOGICAL INSTITUTE
LONDON

THE JOURNAL OF THE
ROYAL ANTHROPOLOGICAL INSTITUTE
LONDON

The Journal of the Royal Anthropological Institute, London, is a quarterly publication devoted to the study of man and his development. It is the only English journal devoted to the study of man and his development. It is the only English journal devoted to the study of man and his development.

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